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 Attorneys for Plaintiff

**UNITED STATES DISTRICT COURT
 SOUTHERN DISTRICT OF NEW YORK**

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 BARRON PARTNERS, LP,

Plaintiff,

-against-

LAB123, INC., HENRY A. WARNER, FRED
 FITZSIMMONS, KENT B. CONNALLY, KURT
 KATZ, ROBERT TRUMPY, JEREMY J. WARNER,
 DAVID FLEISNER, BIOSAFE LABORATORIES,
 INC., and BIOSAFE MEDICAL TECHNOLOGIES, INC.,

Defendants.
 -----X

Index No.
 07 CV 11135 (JSR)

**DECLARATION
 OF
 DAVID S. RICH,
 ESQ.**

ECF CASE

DAVID S. RICH, ESQ. declares under penalty of perjury under the laws of the United States of America that the following is true and correct:

1. I am an attorney admitted to practice in the State of New York and before this Court. I am a partner of the law firm of Lax & Neville LLP, attorneys for plaintiff Barron Partners, LP ("Barron") in the above-captioned action. As such, I am fully familiar with the facts set forth herein.

2. I submit this Declaration opposing the motion of Defendants Lab123, Inc. ("Lab123"), Biosafe Laboratories, Inc. ("Biosafe Labs"), Biosafe Medical Technologies, Inc. ("Biosafe"; together with Biosafe Labs, the "Biosafe Entities"), Henry A. Warner, Jeremy J. Warner, Robert Trumpy, and Kent B. Connally (collectively, the "Individual Defendants"), to dismiss the Amended Complaint, under Fed. R. Civ. P. 12(b)(2) and

12(b)(6), for lack of personal jurisdiction over Jeremy Warner and Kent Connally and failure to state a claim upon which relief can be granted. The purpose of this Affirmation is to provide the Court with the pleadings; with relevant documentary evidence mentioned or referred to in the Amended Complaint or constituting public records; and with documentary evidence relevant to the issue of personal jurisdiction over Jeremy Warner and Kent Connally.

3. Defendants submit three substantive declarations or affidavits and 43 documentary Exhibits totaling about 1,000 pages. Of Defendants' 43 documentary Exhibits, at least 27 are not mentioned or referred to in the Amended Complaint, and are not public records. Specifically, Defendants' documentary Exhibits 1-9, 12-15, 17-18, 24-25, 30-32, 34-36, 38, and 42-44 are not mentioned or referred to in the Amended Complaint, and are not public records.

4. The Court ruled at the May 2, 2008 teleconference that the Court will not convert Defendants' motion to a summary judgment motion, and, thus, that the Court will not consider the Exhibits of Defendants which are not referenced in the Amended Complaint.

5. Accordingly, the Court should disregard, at minimum, Defendants' documentary Exhibits 1-9, 12-15, 17-18, 24-25, 30-32, 34-36, 38, and 42-44.

6. Attached hereto as Exhibit A is a true and correct copy of the Amended Complaint dated March 12, 2008.

7. Attached hereto as Exhibit B is a true and correct copy of a convertible preferred stock purchase agreement between Barron and Lab123 dated September 6, 2006 to issue 3,774,000 shares of Series A Convertible Preferred Stock and a warrant to

purchase 3,774,000 shares of common stock for \$2,000,000 (the "Purchase Agreement"). The Purchase Agreement bears Bates stamp numbers PL 01896 through 01929. (The documents referenced in this Affirmation and bearing Bates stamp numbers with the prefix "PL" were produced by Barron to Defendants on April 21, 2008 in response to Defendants' First Request for Production of Documents and Things.)

8. Attached hereto as Exhibit C is a true and correct copy of the Agreement Effective as of September 7, 2006 By and Between Biosafe Laboratories, Inc. and Lab123, Inc. (the "Licensing Agreement").

9. Attached hereto as Exhibit D are true and correct copies of documents produced by Defendants bearing Bates stamp numbers 100 - 105. (The documents referenced in this Affirmation and bearing Bates stamp numbers with no prefix were produced by Defendants to Barron on or about April 21, 2008 in response to Plaintiff Barron Partners, LP's First Request to Defendants for the Production of Documents. For ease of identification, this Affirmation will refer to these documents produced by Defendants as if they were stamped with the prefix "DEF," for Defendants. For example, this Affirmation will refer to Exhibit D as bearing Bates stamp number DEF 100 – DEF 105.) Exhibit D includes a cover letter dated February 10, 1999 for the Offering Memorandum of The Ultimate Health Club; instructions for completing subscription documents; and the subscription agreement and signature page for an investment in The Ultimate Health Club, Inc.

10. Attached hereto as Exhibit E is a private placement memorandum for The Ultimate Health Club bearing Bates stamp numbers DEF 106 – DEF 142.

11. Attached hereto as Exhibit F are true and correct copies of Consolidated Statements of Cash Flows for Biosafe Medical Technologies, Inc. and subsidiaries and notes to those consolidated statements, bearing Bates stamp numbers DEF 260 – DEF 262.

12. Attached hereto as Exhibit G is a true and correct copy of a memorandum dated November 27, 2006 and bearing Bates stamp numbers DEF 143 – DEF 144; a purchase order from Kellogg's North America Co. to Biosafe Medical Technologies dated January 5, 2007, ordering 778,400 Cholesterol Kits, and bearing Bates stamp numbers DEF 145; a Joint Promotion Agreement dated December 6, 2006 between Kellogg North America Company and Biosafe Medical Technologies, Inc. bearing Bates stamp numbers DEF 146 – DEF 151; Exhibit A to the Joint Promotion Agreement entitled a "Statement of Work" and bearing Bates stamp numbers DEF 152; and a price Quotation from Biosafe to Collins Youngclouse Advertising dated March 1, 2007 for Kellogg's Smart Start Cholesterol Kits and bearing Bates stamp number DEF 153.

13. Attached hereto as Exhibit H are true and correct copies of Defendants' responses to Barron's due diligence Questionnaire with a cover e-mail from Robert Trumpy to Barron analyst Matthew Samuel. These documents bear Bates stamp numbers PL 00027 – PL 00034.

14. Attached hereto as Exhibit I are true and correct copies of an e-mail from Henry Warner to Andrew Worden dated May 23, 2006 attaching projected income statements for "Retail Newco," and a catalog of Biosafe diagnostic products. These documents bear Bates stamp numbers PL 00320 – PL 00342.

15. Attached hereto as Exhibit J is a true and correct copy of a document entitled "Biosafe Medical Technologies, Sales by Customer Summary, January 1 through June 7, 2006," and bearing Bates stamp numbers PL 00278 – PL 00305.

16. Attached hereto as Exhibit K is true and correct copy of an e-mail from Robert Trumpy to Matthew Samuel dated August 27, 2006 and attached spreadsheets, bearing Bates stamp numbers PL 00101 – PL 00148.

17. Attached hereto as Exhibit L is a true and correct copy of an e-mail chain including an e-mail from Henry Warner to Barron's Managing Partner Andrew Worden and Barron analyst Matthew Samuel dated August 7, 2006 and bearing Bates stamp numbers PL 00037 – PL 00039; and an e-mail chain including an e-mail from Henry Warner to Barron analyst Matthew Samuel dated July 31, 2006.

18. Attached hereto as Exhibit M is a true and correct copy of an e-mail chain including an e-mail from Henry Warner to Barron analyst Matthew Samuel and Barron's Managing Partner Andrew Worden dated August 10, 2006 and bearing Bates stamp numbers PL 00035 – PL 00036.

19. Attached hereto as Exhibit N is a true and correct copy of the Affidavit of Frederick Fitzsimmons sworn to on March 8, 2008 bearing Bates stamp numbers PL 02150 – PL 02158.

20. Attached hereto as Exhibit O is a true and correct copy of an e-mail from Henry Warner to Barron analyst Matthew Samuel dated March 19, 2007, 7:44 AM, and bearing Bates number PL 00011.

21. Attached hereto as Exhibit P is a true and correct copy of the Officers and Directors Form completed by Defendants and bearing Bates numbers PL 01666 – PL 01672.

22. Attached hereto as Exhibit Q is a true and correct copy of an e-mail from Robert Trumpy to Barron analyst Matthew Samuel dated September 21, 2006 with an attached spreadsheet showing total sales for the Biosafe products in August 2006. The document bears Bates numbers PL 00022 – PL 00024.

23. Attached hereto as Exhibit R is a true and correct copy of Lab123's Form SB-2 filed September 22, 2006 and bearing Bates stamp numbers PL 01010 – PL 01018.

24. Attached hereto as Exhibit S is a true and correct copy of Lab123's revised Form SB-2 dated November 2006 and bearing Bates stamp numbers PL 01034 – PL 01082.

25. Attached hereto as Exhibit T is a true and correct copy of Biosafe Medical Technologies, Inc.'s Involuntary Bankruptcy Petition dated March 12, 2007 and bearing Bates stamp numbers PL 02025 – PL 02059.

26. Attached hereto as Exhibit U is a true and correct copy of Petitioning Creditors' Motion to Appoint a Trustee dated March 22, 2007 in the bankruptcy action entitled In re Biosafe Medical Technologies, Inc., No. 07-4412 (Bankr. N.D. Ill.). The document bears Bates stamp numbers PL 02060 – PL 02072.

27. Attached hereto as Exhibit V are true and correct copies of: an e-mail chain including an e-mail from Barron analyst Matthew Samuel directed to Jeremy Warner and bearing Bates stamp numbers PL 01207 – PL 01209 and PL 01212 – PL 01213; and e-mails from Jeremy Warner to Barron analyst Matthew Samuel dated

January 4, 2007 and January 15, 2007, attaching numerous images for Lab123's website, and bearing Bates stamp numbers PL 01603 – PL 01625.

28. Attached hereto as Exhibit W are e-mails from Defendant Jeremy Warner to Barron analyst Mathew Samuel dated February 5, 2007, February 27, 2007, and March 5, 2007 and bearing Bates stamp numbers PL 01626 – PL 01648, PL 01650 – PL 01655, and PL 01664 – PL 01665.

29. Attached hereto as Exhibit X is a letter from the Securities Exchange Commission dated December 1, 2006 to Lab123's President Michael Sosnowik questioning Lab123's revenue recognition policy set forth in the Lab123's revised Form SB-2 filed November 22, 2006. This document bears Bates stamp numbers PL 00723 – PL 00728.

30. Attached hereto as Exhibit Y are Lab123's second revised Form SB-2 filed on or about December 11, 2006 and bearing Bates stamp numbers PL 00475 – PL 00525; and a letter from Darren Ofsink of Guzov Ofsink, Lab123's outside counsel, to the Securities Exchange Commission dated December 11, 2006 and bearing Bates stamp numbers PL 00526 – PL 00532.

31. Attached hereto as Exhibit Z is an e-mail from Jay Weil, Esq. of Lab123's outside counsel Guzov Ofsink, LLC ("Guzov Ofsink") to Kent Connolly dated December 8, 2006 regarding the Amendment No. 2 to Form SB-2. This document bears Bates stamp number PL 00474.

32. Attached hereto as Exhibit AA is an e-mail chain including an e-mail from Kent B. Connolly to Barron's Managing Partner Andrew B. Worden dated March 28, 2007 and bearing Bates stamp numbers PL 02167 – PL 02169.

33. Attached hereto as Exhibit BB are true and correct copies of an excerpt, bearing Bates stamps number PL 00831, of the Lab123 Registration Statement – Form SB-2 dated September 2006; an excerpt, bearing Bates stamp number PL 01034, of the Lab123 Registration Statement – Form SB-2, Amendment 1 filed November 2006; an excerpt, bearing Bates stamp number PL 00475, of the Lab123 Registration Statement – Form SB-2, Amendment 2 filed December 2006; and an excerpt, bearing Bates stamp number PL 01105, of the Lab123 Registration Statement – Form SB-2, Amendment 1 filed November 2006.

34. Attached hereto as Exhibit CC are true and correct copies of e-mails between, or chains of e-mails including e-mails between, attorneys Jay Weil and Darren Ofsink of Lab123's outside counsel Guzov Ofsink on the one hand and Barron on the other hand: dated May 4, 2007 and bearing Bates stamp numbers PL 00001; dated March 28, 2007 and bearing Bates stamp numbers PL 00007 – PL 00008; dated March 22, 2007 and bearing Bates stamp number PL 00009; dated February 23, 2007 and bearing Bates stamp numbers PL 0009 – PL 00010, PL 00021; dated September 19, 2006 and bearing Bates stamp numbers PL 00025 – PL 00026; dated August 10, 2006 and bearing Bates stamp numbers PL 00035 – PL 00036; dated August 7, 2006 and bearing Bates stamp numbers PL 00037 and PL 00040; dated August 3, 2006 and bearing Bates stamp number PL 00041; dated July 27, 2006 and bearing Bates stamp numbers PL 00041 – PL 00042; dated July 31, 2006; and dated July 24, 2006 and bearing Bates stamp numbers PL 00149 – PL 00150.

35. Attached hereto as Exhibit DD is a true and correct copy of a letter from Darren Ofsink of Lab123's outside counsel Guzov Ofsink to the Securities Exchange

Commission dated November, 2006 and bearing Bates stamp numbers PL 00995 – PL 01009.

36. Attached hereto as Exhibit EE is a true and correct copy of excerpts bearing Bates stamp numbers PL 00461, PL 00509, and PL 00567, from a Report of Independent Registered Public Accounting Firm from Lab123's independent auditor Marcum & Kliegman LLP to the Board of Directors of Lab123, Inc., dated September 21, 2006.

37. Attached hereto as Exhibit FF is a true and correct copy of a New York State Department of Health Clinical Laboratory Permit for Biosafe Laboratories Inc. dated effective July 1, 2007 and bearing Bates stamp number DEF 3.

38. Attached hereto as Exhibit GG are a New York State Department of Health Certificate of Qualification for Erlo Roth, M.D. apparently of Biosafe Labs, dated effective December 17, 2003 and bearing Bates number DEF 4; a New York State Department of Health Application for Initial Permit (Form DOH-3494) completed by Biosafe Labs on April 8, 1999 and bearing Bates numbers DEF 5 – DEF 10; a New York State Department of Health Oncology-Serum and Soluble Tumor Markers Questionnaire completed by Biosafe Labs on April 6, 1999 and bearing Bates stamp number DEF 11; a New York State Department of Health Diagnostic Immunology – Diagnostic Services Questionnaire completed by Biosafe Labs on April 6, 1999 and bearing Bates stamp number DEF 12; a New York State Department of Health Clinical Laboratory Evaluation Program for Facility Personnel, listing persons who appear to be facility personnel of Biosafe Labs, and bearing Bates numbers DEF 13 – DEF 15; an Application for Certificate of Qualification – Clinical Laboratory Director/Assistant Director completed

by Biosafe Labs on April 7, 1999 and bearing Bates numbers DEF 16 – DEF 22; a State of Illinois physician and surgeon license for Milan Babich, M.D. of Biosafe Labs effective through July 31, 1999, and bearing Bates number DEF 23; an American Board of Pathology diploma for Milan Babich, M.D. of Biosafe Labs dated May 26, 1974 and bearing Bates number DEF 24; and a check drawn on the account of Biosafe Laboratories, Inc., and made payable to the order of the New York State Department of Health in the amount of \$40 (forty dollars), dated March 23, 1999, and bearing Bates number DEF 25.

39. Attached hereto as Exhibit HH is a true and correct copy of an e-mail from Robert Trumpy to Barron analyst Matthew Samuel dated June 20, 2006 attaching the then-proposed Licensing Agreement and bearing Bates stamp numbers PL 00236 – PL 00277.

40. Attached hereto as Exhibit II are true and correct copies of an e-mail from Henry Warner to Barron's Managing Partner Andrew B. Worden and Barron analyst Matthew Samuel dated March 28, 2007, 8:46 A.M., and bearing Bates stamp number PL 00006, and of an e-mail from Barron's Managing Partner Andrew B. Worden to Henry Warner dated March 28, 2007, 9:20 A.M., and bearing Bates stamp numbers PL 00007 – PL 00008.

41. Attached hereto as Exhibit JJ is a true and correct copy of a document posted on the website of the New York State Department of Health's Wadsworth Center

and entitled "Frequently Asked Questions, Clinical Laboratory Evaluation Program, Wadsworth Center."

Dated: New York, New York
May 20, 2008

/s/ David S. Rich
David S. Rich (DR-2492)